

**BEFORE THE BOARD OF REAL ESTATE APPRAISERS**

**STATE OF IDAHO**

In the Matter of the License of:	)	
	)	Case No. REA-2007-77
DEMISE L. HARRIMAN	)	
License No. RT-906,	)	<b>STIPULATION AND</b>
	)	<b>CONSENT ORDER</b>
Respondent.	)	
_____	)	
REA\Harriman\VP8028lga		

WHEREAS, information has been received by the Idaho State Board of Real Estate Appraisers (the "Board") that constitutes sufficient grounds for the initiation of an administrative action against Demise L. Harriman ("Respondent"); and

WHEREAS, the parties mutually agree to settle the matter in an expeditious manner in lieu of administrative hearings before the Board; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

**A. Alleged Facts and Law**

A.1. The Board regulates the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

A.2. The Board has issued License No. RT-906 to Respondent. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code and the Board's rules at IDAPA 24.18.01, *et seq.*

A.3. Respondent was licensed as an appraiser trainee on July 1, 2003.

A.4. Pursuant to Idaho Code § 54-4116, the Board has adopted a rule requiring continuing education as a condition of continued licensure as an appraiser trainee. Board Rule 275.03 (IDAPA 24.18.01.275.03) requires that, before the second renewal of an appraiser trainee registration, an appraiser trainee shall be required to obtain the equivalent of fifteen (15) classroom hours of instruction in Board-approved courses or seminars during the twelve (12) month period preceding the renewal.

A.5. On or about June 5, 2006, Respondent submitted a License Renewal Application for the 2006-07 renewal year. As part of the License Renewal Application, Respondent signed the following affidavit:

I hereby certify under penalty of perjury that my responses to the above are true and correct, and that I have met the continuing education requirement as prescribed by the laws & rules applicable to the license for which I am applying to renew, and that documented proof of my attendance is in my possession and will be provided upon request.

A.6. The License Renewal Application further notified Respondent that the Board would conduct random audits to ensure compliance with continuing education requirements.

A.7. On or about March 1, 2007, Respondent was notified that she had been selected for a continuing education audit. Respondent was requested to provide documentation to the Bureau of Occupational Licenses by April 1, 2007, to confirm completion of the Board's continuing education requirements.

A.8. On or about March 16, 2007, Respondent submitted to the Bureau of Occupational Licenses her Continuing Education Audit Verification and Certificate of Compliance.

A.9. The Continuing Education Audit Verification and Certificate of Compliance submitted by Respondent reflects that Respondent attended no continuing education during the audit period. Respondent also included a letter with the Continuing Education Audit Verification and Certificate of Compliance stating that Respondent did not wish to pursue continued licensure as a real estate appraiser trainee in the State of Idaho.

A.10. Despite certifying on her License Renewal Application on June 5, 2006, that she had met the Board's continuing education requirement, Respondent failed to obtain 15 hours of continuing education for the 12 months before renewal.

A.11. The allegations of Paragraphs A.4 through A.10, if proven, would violate

the laws and rules governing the practice of real estate appraising, specifically Idaho Code §§ 54-4107(1)(a), (c) and (d) and 54-4116 and IDAPA 24.18.01.401.02. Violations of these laws and rules would constitute grounds for disciplinary action against Respondent's license to practice as a real estate appraiser trainee in the State of Idaho.

### **B. Waiver of Procedural Rights**

I, Demise L. Harriman, by affixing my signature hereto, acknowledge that:

B.1. I have read, understand and admit the allegations pending before the Board, as stated in Section A, Paragraphs A.4 through A.10. I further understand that these allegations constitute cause for disciplinary action upon my license to practice as a real estate appraiser trainee in the State of Idaho.

B.2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to testify myself; the right to reconsideration of the Board's orders; the right to judicial review of the Board's orders; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this Stipulation as a resolution of the pending allegations.

B.3. I understand that in signing this Stipulation I am enabling the Board to impose disciplinary action upon my license without further process.

### **C. Stipulated Discipline**

C.1. Respondent hereby voluntarily surrenders License No. RT-906, including any renewal rights Respondent may have under Idaho Code § 67-2614.

C.2. The Board hereby accepts Respondent's voluntary surrender of License No. RT-906. Respondent shall immediately return said license to the Bureau of Occupational Licenses.

C.3. Should Respondent request reinstatement of licensure in the future, the following conditions of reinstatement shall apply:

a. For a period of three (3) years following reinstatement, Respondent shall submit with each annual application for license renewal documentation verifying completion of required continuing education.

b. The Board reserves the right, in its discretion, to impose additional conditions of reinstatement of licensure in accordance with title 54, chapter 41, Idaho Code and the Board's Rules, including, without limitation, assessing a fine in this Case No. REA-2007-77 as a condition of reinstatement.

#### **D. Presentation of Stipulation to Board**

D.1. The Board's prosecutor shall present this Stipulation to the Board with a recommendation for approval.

D.2. The Board may accept, modify with Respondent's approval, or reject this Stipulation. If the Board rejects the Stipulation, an administrative Complaint may be filed with the Board. Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the allegations in the administrative Complaint based on the fact that the Board has considered and rejected this Stipulation. Respondent does not waive any other rights regarding challenges to Board members.

D.3. If the Board rejects this Stipulation then, except for Respondent's waiver set forth in Paragraph D.2., this Stipulation shall be regarded as null and void, and admissions in this Stipulation and negotiations preceding the signing of this Stipulation will not be admissible at any subsequent disciplinary hearing.

D.4. Except for Paragraph D.2. which becomes effective when Respondent signs this Stipulation, this Stipulation shall not become effective until it has been approved by a majority of the Board and a Board member signs the attached Order.

#### **E. Violation of Stipulation and Consent Order**

E.1. If Respondent violates this Stipulation and Consent Order, the violation shall be considered grounds for additional discipline and the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether Respondent has violated this Stipulation and Consent Order. The Chief shall also serve notice of the hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of the hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the alleged violations will be deemed admitted.

b. At the hearing, the Board and Respondent may submit evidence and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to evidence relevant to whether Respondent has violated this Stipulation and Consent Order. At the hearing the facts and substantive matters related to the violations described in Section A shall not be at issue.

c. At the hearing, the Board may impose additional discipline, which may include the suspension or revocation of Respondent's license, the imposition of fines, the recovery of costs and attorney fees incurred by the Board and/or other conditions or limitations upon Respondent's practice.

E.2. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

E.3. This Stipulation contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above Stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I am waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this Stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this Stipulation according to the aforementioned terms, and I hereby agree to the above Stipulation for settlement. I understand that if the Board approves this Stipulation subject


to changes, and the changes are acceptable to me, the Stipulation will take effect and an order modifying the terms of the Stipulation will be issued. If the changes are unacceptable to me or the Board rejects this Stipulation, it will be of no effect.

DATED this 28 day of January, 2008.

  
Demise L. Harriman  
Respondent

Approved as to form this 30 day of January, 2008.


  
TROUT, JONES, GLEDHILL & FUHRMAN

By   
Derrick L. O'Neill  
Of Attorneys for Respondent

I recommend that the Board enter an Order based upon this Stipulation.

DATED this 30<sup>th</sup> day of January, 2008.

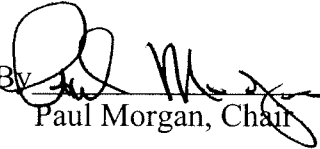
STATE OF IDAHO  
OFFICE OF THE ATTORNEY GENERAL

By   
Michael S. Gilmore  
Deputy Attorney General

## ORDER

Pursuant to Idaho Code § 54-4106(2)(h), the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 11 day of February, 2008. IT IS SO ORDERED.

IDAHO STATE BOARD  
OF REAL ESTATE APPRAISERS

By  \_\_\_\_\_  
Paul Morgan, Chair

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11<sup>th</sup> day of February, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

Demise L. Harriman  
329 Creekside Place  
Nampa, ID 83686

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Derrick J. O'Neill  
TROUT, JONES, GLEDHILL & FUHRMAN  
P.O. Box 1097  
Boise, ID 83701


- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

Michael S. Gilmore  
Deputy Attorney General  
P.O. Box 83720  
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☒ Statehouse Mail

Michael J. Elia  
MOORE, BASKIN & ELIA, LLP  
P.O. Box 6756  
Boise, ID 83707

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: \_\_\_\_\_
- ☐ Statehouse Mail

  
\_\_\_\_\_  
Tana Cory, Chief  
Bureau of Occupational Licenses